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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,147

05/17/2004

Jay Patel

JSF01-0059/WJT08-0078

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LAW OFFICE OF WILLIAM J. TUCKER  
2631 Lakeforest Ct.  
Dallas, TX 75214

EXAMINER

VO, NGUYEN THANH

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,147	<b>Applicant(s)</b> PATEL ET AL.	
	<b>Examiner</b> NGUYEN VO	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 34-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-33 in the reply filed on 04/21/2008 is acknowledged.

### ***Examiner's Comment***

2. This application 10/716,147 is a continuation-in-part of application 10/388,788 filed on 03/14/2003. The claimed invention of claims 1-33 is not supported by the parent application 10/388,788. Accordingly, the present application 10/716,147 does not enjoy the benefit of an earlier filing date of the parent application 10/388,788. The effective filing date of the present application 10/716,147 is 05/17/2004.
3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

**Misnumbered claims 12-77 have been renumbered 11-76. The last claim has been renumbered 77 (instead of 75).**

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-4, 6-11, 13-22, 24-26, 28-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 2, the recitations "the transmit energy" (see page 45, lines 14-15), "the appropriate phases" (see page 45, line 15), "the commanded direction and width" (see page 45, line 16), and "the correct signal" (see page 45, line 17) lack clear antecedent basis.

As to claim 6, the recitation "said beam width and steer" lacks clear antecedent basis.

As to claim 8, the recitation "said radome" lacks clear antecedent basis.

As to claim 10, the recitation "said scanning antenna azimuth scan angle" lacks clear antecedent basis.

As to claim 11, the recitation "said power divider" lacks clear antecedent basis.

As to claim 13, it is rejected for similar reasons as set forth in claim 2 above.

As to claim 17, it is rejected for similar reasons as set forth in claim 6 above.

As to claim 19, it is rejected for similar reasons as set forth in claim 8 above.

As to claim 21, it is rejected for similar reasons as set forth in claim 10 above.

As to claim 22, it is rejected for similar reasons as set forth in claim 11 above. In addition, claim 22 should depend from claim 13 instead of claim 2.

As to claims 14-22, the recitation "the RF card reader" lacks clear antecedent basis. It should be changed to --the RF ID tag reader-- in order to be consistent with independent claim 12.

As to claim 24, the recitation "switchable device." on page 49 line 22 should be changed to --switchable device--;. In addition, claim 24 is rejected for similar reasons as set forth in claim 2 above.

As to claim 28, it is rejected for similar reasons as set forth in claim 6 above.

As to claim 30, it is rejected for similar reasons as set forth in claim 8 above.

As to claim 32, it is rejected for similar reasons as set forth in claim 10 above.

As to claim 33, it is rejected for similar reasons as set forth in claim 11 above.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of

compending Application No. 10/858,016. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

As to claims 1, 23, claim 1 of the mentioned-above compending Application No. 10/858,016 discloses all the claimed limitations.

As to claims 2, 24, claim 4 of the mentioned-above compending Application No. 10/858,016 discloses all the claimed limitations.

As to claims 3-8, 10-11, 14-19, 21-22, 25-30, 32-33, claims 1-22 of the mentioned-above compending Application No. 10/858,016 fail to disclose various features of the RF ID tag system as claimed. Those skilled in the art, however, would have recognized that the above differences would not render the claims patentable over claims 1-22 of the mentioned-above compending Application because they would merely depend on how one would like to design his/her own RF ID tag system. In addition, the examiner takes Official Notice that such features as claimed are known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify claims 1-22 of the mentioned-above compending Application as claimed, in order to allow the RF ID card reader to properly scan a desired RF ID tag.

As to claims 9, 20, 31, claim 1 of the mentioned-above compending Application No. 10/858,016 discloses all the claimed limitations.

As to claim 12, claim 1 of the mentioned-above compending Application No. 10/858,016 discloses all the claimed limitations. In this case, a microcontroller as claimed is inherently included in claim 1 of the mentioned-above compending Application No. 10/858,01 in order to perform RF ID reading function.

As to claim 13, claim 4 of the mentioned-above copending Application No. 10/858,016 discloses all the claimed limitations.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 5, 12, 16, 23, 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Steinberg (US 2005/0212676).

As to claim 1, Steinberg discloses an RF ID card reader 20 (see figure 1), comprising RF ID circuitry to generate an RF ID signal (inherently included because device 20 is a RF ID reader); a transceiver in communication with said RF ID circuitry (inherently included because device 20 is a RF ID reader), and a scanning antenna associated with said transceiver for scanning an area for at least one tag and establishing communication with at least one tag 4 (see paragraph [0025]).

As to claim 5, Steinberg further disclose a microcontroller 27, and an interface (in this case the interface as claimed reads on the connection between the controller 27 and antenna 28 as disclosed at paragraphs [0017] and [0025]).

As to claim 12, it is rejected for similar reasons as set forth in claim 1 above. In addition, Steinberg further discloses at least one RF ID tag 4 (see figure 1); at least one RF ID tag reader microprocessor 27.

As to claim 16, it is rejected for similar reasons as set forth in claim 5 above.

As to claim 23, it is rejected for similar reasons as set forth in claim 1 above.

As to claim 27, it is rejected for similar reasons as set forth in claim 5 above.

***Allowable Subject Matter***

11. Regarding claims 2-4, 6-11, 13-15, 17-22, 24-26, 28-33, the prior art of record fail to disclose or render obvious a scanning antenna as specified in claims 2, 13 and 24.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hasen (US 2007/0252687) discloses RF ID card reader system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NGUYEN VO whose telephone number is (571)272-7901. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nguyen Vo/  
Primary Examiner, Art Unit 2618  
07/10/2008